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September 12, 1994

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 94-54:
Equal Access and Interconnection Obligations
Pertaining to Commercial Mobile Radio Services

Dear Mr. Caton:

Transmitted herewith for filing with the Commission on behalf of the Bell Atlantic Companies are an original and five copies of their "Comments" on the Commission's Notice of Proposed Rulemaking and Notice of Inquiry in the above-referenced proceeding.

Should you have any questions with regard to this matter, please communicate with this office.

Very truly yours,

John T. Scott, III

John T. Scott, III

Enclosures

ORIGINAL

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service	)	CC Docket No. 94-54

COMMENTS OF THE BELL ATLANTIC COMPANIES

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Dated: September 12, 1994

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COMMENTS OF THE BELL ATLANTIC COMPANIES

The Bell Atlantic Companies, by their attorneys and pursuant to Section 1.415 of the Commission's Rules, hereby submit comments on the Commission's Notice of Proposed Rulemaking and Notice of Inquiry (Notice) in this proceeding (FCC 94-145, released July 1, 1994).

I. SUMMARY

The Commission's Second Report and Order in Gen Docket No. 93-252, 9 FCC Rcd. 1411 (1994), took numerous actions to implement revised Section 332 of the Communications Act, but recognized that additional steps needed to be taken. The purpose of this new proceeding is to consider further actions to implement Section 332. The Notice asks three basic questions: Should equal access be imposed on all CMRS providers? Should rules be adopted to regulate interconnection provided by local exchange carriers to CMRS providers? Should specific rules be considered to regulate how CMRS providers interconnect with each other?

The answers to each of these questions can be found in Congress's two cardinal goals for Section 332. In fact, those goals not only point the way to the answers, but compel them. The first goal is to achieve "regulatory symmetry" by ensuring that similar services are subject to "a consistent regulatory framework." Notice at ¶ 2. Congress's second goal is "to avoid unwarranted regulatory burdens." Id. The Commission should not displace free competition with regulation unless intervention is essential to preserve symmetry and promote competition.

With these principles in mind, the answers to the Notice's three overall questions are apparent.

1. Equal Access. Given that equal access obligations are imposed by court decree on some CMRS providers, the BOC cellular affiliates, the Commission should impose those obligations on all cellular, PCS and SMR carriers providing CMRS. The Commission has decided that "an even-handed regulatory scheme under Section 332 would promote competition by refocusing competitors' efforts away from strategies in the regulatory arena and toward technological innovation, service quality, competitive pricing, and responsiveness to consumer needs." Notice at ¶ 2. This is precisely why, as long as equal access is an obligation of some carriers, it must be an obligation of all competing carriers.

Equal access regulation today is in fact glaringly unequal, creating precisely the competitive distortions and inequities so detrimental to consumers that Congress sought to eradicate. The Commission should adopt uniform equal access rules, not only for all cellular carriers but also for all PCS and SMR carriers

offering CMRS. There is no basis for applying different rules to these carriers since they can offer CMRS service in competition with cellular carriers. Consistent equal access rules are legally required to achieve Congress's mandate and should be adopted now.

2. LEC-CMRS Interconnection. The Commission should not require LECs to tariff their interconnection arrangements with CMRS carriers. LECs are already under a duty to interconnect with cellular carriers, and that duty has been extended to all CMRS carriers desiring interconnection. But there is no demonstrable need for imposing additional, burdensome tariffing rules. Requiring tariffs would also run counter to the Commission's previous determination that tariffs may be anti-competitive, raise costs, and discourage innovation. Second Report at ¶¶ 173 et seq.

3. CMRS-CMRS Interconnection. Consumers are best served when all service providers design their networks to facilitate interconnection among them. While the Commission can declare that CMRS carriers have a basic obligation to interconnect with other licensed carriers, it should first rely on the marketplace to determine the appropriate interconnection arrangements. Given the many new CMRS services, the rapid changes occurring in the industry, and the pressing need for other clearly needed rule changes, adopting detailed rules here would be premature. Should interconnection problems develop which are not resolved by the market, the Commission can then intervene. But taking specific regulatory actions now would be precisely the sort of "unwarranted regulatory burden" that Congress opposed. Notice at ¶ 2.

II. CMRS EQUAL ACCESS IS ESSENTIAL TO ERADICATE THE REGULATORY INEQUITIES THAT NOW DISTORT THE CMRS MARKET.

A. The Current Situation Violates the Intent of Section 332.

The Modification of Final Judgment (MFJ) requires cellular affiliates of the Bell Operating Companies (BOCs) to offer "equal access" to all interexchange carriers. Traffic which crosses a "LATA" boundary must, with some geographic expansions permitted by the MFJ court, be handed off to the interexchange carrier (IXC) selected by the subscriber. BOC affiliates cannot transport calls across those boundaries. But the BOCs' cellular competitors are not subject to equal access, nor are either PCS or SMR carriers offering interconnected service.

While Bell Atlantic would prefer the elimination of the MFJ's equal access requirements, the fact is that they are firmly in place for it and other BOC cellular affiliates.[1/] This is a serious regulatory inequity which Section 332 was intended to eradicate. Given that equal access is a fact of life for a significant part of the cellular industry, there is no justification for not imposing it on all cellular and other competing CMRS providers. Failure to do so would violate Congress's intent in Section 332. The Commission acknowledges that the current situation "may be inconsistent with Congressional intent and the

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1/ In 1991, the BOCs requested the U.S. Department of Justice to support before the MFJ court the elimination of equal access requirements for wireless services. Given opposition from the Department and from AT&T among others to their request, the BOCs filed a modified request for much more limited relief, including the replacement of LATA-based exchange areas with MTAs. Justice has declined even to support the BOCs' request for MTA-based calling areas.

Commission's efforts in the CMRS Second Report to reshape our regulatory structure to give CMRS providers the opportunity to compete under comparable rules." Notice at ¶ 39. There is no question but that failure to adopt equal access for the CMRS industry would clearly undermine and violate one of the cardinal purposes of Section 332, to promote competition and service to the public by eliminating regulatory incongruities.

B. Unequal Equal Access Distorts the Market and Harms Consumers.

This is not merely an academic issue. It is demonstrably counter to the public interest generally, as well as to Section 332 in particular, to force one group of CMRS providers to compete under restrictive rules that their competitors can ignore. The situation is particularly egregious within the cellular industry. For 12 years the Commission has fostered a market structure which has as its guiding principle that licensing two carriers in each market fosters vigorous, head-to-head competition. Where, however, one of the two competing carriers is required to offer equal access but the other is not, even-handed competition is impossible.

Two principal market distortions injurious to consumers have resulted from partial imposition of equal access, the pricing of long-distance service and the marketing of "local" calling areas. First, non-BOC cellular carriers need not (and in fact do not) offer their customers a choice among IXCs for handling long-distance calls. Instead, they buy long distance toll service from a single IXC at bulk rates and resell that service to customers,

at a profit. In effect, the non-BOC carrier provides long distance service purchased at wholesale rates from a single carrier. In contrast, the BOC cellular carriers cannot follow this strategy, but must "hand off" a subscriber's long-distance calls to the subscriber's carrier of choice, for which the subscriber pays retail rates. This situation impairs even-handed competition that would benefit consumers.

The second disparity results from the calling area aspect of equal access. Non-BOC cellular carriers do not have to hand off calls to IXCs at LATA boundaries, but can and do transcend those boundaries. They heavily advertise the size of their "local" calling areas as a major advantage, and unfavorably compare the LATA-limited calling areas of competing BOC cellular systems. The BOCs, in contrast, cannot expand the scope of their "local" calling areas beyond the restrictive LATA boundaries (except in the situations where the MFJ court has granted waivers).

These disparities have harmful effects on subscriber costs. Since the BOC carriers cannot compete on equal terms, their competitors do not have to. The current inequities guarantee that non-BOC carriers have a substantial competitive edge over the BOCs, and thus dull their incentive to innovate or cut prices. Consumers are the losers. Price and service area competition is weakened and distorted, impeding lower prices and thus harming consumers.

These and other evils of unequal equal access were set forth in the record of Gen. Docket No. 93-252, which has been incorporated into this proceeding. Notice at n. 2. Numerous commenters,

even those which are now not subject to equal access, agreed that the current situation is irrational and must be corrected by offering all customers a choice among IXCs.[2/] NARUC states that it has advocated full equal access in the wireless industry for more than three years, and the only state commenting on equal access, California, also advocated it.[3/] That record further supports adoption of CMRS equal access.

C. Equal Access Must Be Extended to SMR and PCS Carriers Offering CMRS.

Equal access cannot, however, simply be limited to cellular carriers without undercutting explicit objectives of both Congress and the Commission. Congress, in enacting Section 332, and the Commission, in its numerous recent proceedings to implement that provision, have sought to harmonize regulations between similar, competing carriers. The Commission created the PCS service and has fostered the expansion of the SMR service explicitly to provide competition to cellular carriers. It has determined that PCS carriers and SMR carriers offering CMRS are "similar" to cellular carriers and should thus be generally subject to the same application, licensing and other rules.[4/] Both PCS and SMR carriers will unquestionably seek market share by competing for

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2/ See, e.g., Comments of PTC Cellular at 12.

3/ Comments of the National Association of Regulatory Utilities Commissioners at 22; Comments of the People of the State of California and the California Public Utilities Commission at 11.

4/ Third Report and Order, Gen Docket No. 93-252, Report No. DC-2638 (Aug. 9, 1994).

current cellular customers and offering them similar mobile voice communications capabilities. The market distortions that already exist in the cellular industry because of unequal equal access will only be exacerbated when PCS and SMR carriers begin to compete and attract subscribers.[5/]

The record in Gen. Docket 93-252 provides further support for a consistent equal access policy for competing CMRS services. Even those who opposed equal access nonetheless agreed that it should either be imposed on all CMRS providers, or imposed on none. They recognize that if it is adopted, symmetry requires that it be adopted across the board.[6/]

The Commission suggests that equal access may be unnecessary for PCS and SMR carriers (as opposed to cellular carriers) because they lack "market power." Notice at ¶ 46. It relies on the assumption that determining the extent to which equal access should be imposed should depend "in part on an analysis of the market power of the various CMRS competitors." Notice at ¶ 31. Bell Atlantic disagrees that an analysis of market power, and in

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5/ There is no need to extend equal access to PCS or SMR carriers who offer only private services. But once either type of carrier decides to compete for subscribers by offering interconnected service, it should become subject to equal access.

6/ Comments of GTE at 23 and n. 57 ("It is particularly important that cellular, PCS and ESMRs be treated the same for equal access and other purposes."); Comments of Liberty Cellular at 3 ("The concept of regulatory parity for CMRS providers is inherently fair, and the burdens of regulation should be uniform."); Comments of Century Cellunet, Inc. at 7 n. 10 ("If such obligations are imposed on cellular carriers, however, regulatory parity demands that they also apply to the full range of wireless services.").

particular its application to the CMRS industry today, provides a rational ground for differential application of equal access.

First, the Commission has no basis for drawing distinctions between cellular and competitive CMRS services based on assertions as to market power. To the contrary, in the Second Report the Commission determined that the cellular industry was sufficiently competitive to forbear from certain regulation, and "did not reach any conclusion about whether cellular providers have market power." Notice at n. 225. The cellular industry is in fact vigorously competitive. In any event, given the Commission's own findings, assumptions as to market power supply no reason for differential equal access policies.

Second, the Commission's own analysis of the possible benefits of equal access does not turn on whether the CMRS carrier has market power. It focuses on the benefits of symmetry, and the price and service benefits which might result from direct IXC competition for customers. Notice at ¶¶ 36-39. None of these benefits turn on the level of competition among CMRS carriers. The Notice does not articulate any reason why a CMRS carrier's market power (or lack thereof) is relevant to the benefits (or costs) of providing equal access to customers.[7/]

7/ The only link the Notice tries to draw between the level of competition in the CMRS marketplace and the need for equal access is its assertion that "In a marketplace that may not be fully competitive, allowing individual customers to choose their IXC places the decision about interexchange services directly in the hands of the end user rather than the mobile carrier." (¶ 36.) If this is in the public interest, it is no less so where there is a fully-competitive market. Whatever benefits there are to IXC equal access, they exist regardless of how many CMRS carriers are competing.

There is, in short, no reason to distinguish between cellular carriers and PCS or SMR carriers for purposes of whether equal access should be imposed.[8/] If equal access is desirable for the cellular industry, it is just as desirable for the PCS and SMR industry. Any such distinction would be arbitrary and flatly violative of the symmetry the Commission is working to achieve.

D. The Technical Burdens of Equal Access Are Manageable.

While the Notice (at ¶ 40) refers to certain costs associated with equal access, such access is in fact the norm throughout much of the telecommunications industry. IXCs have equal access rights to virtually all customers of wireline telephone service and to a significant proportion of all cellular customers. Extending equal access to other CMRS carriers would not be a radical step but rather would acknowledge the reality of equal access as the rule that already applies to most long-distance traffic.

In addition, the Commission amassed a detailed record on equal access in Gen Docket No. 93-252. That record contains no specific evidence of the costs equal access would impose on carriers now free from it, let alone a demonstration that those costs would somehow prevent CMRS carriers from competing.

In fact the cost of conversion to equal access is a one-time expense which can often be made with existing equipment. Bell Atlantic has been required to convert the non-wireline cellular

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8/ The Notice (¶ 45) cites Nextel's irrelevant comment that SMR carriers should not have equal access obligations because they "do not control a bottleneck." Neither, of course, do any cellular carriers, as the Commission has found. Notice at n. 225.

systems it has acquired to equal access. It has found that the necessary equipment is readily available and can be installed at reasonable cost. Contrary to the Notice's (¶ 40) suggestion that there may be substantial costs in balloting customers, Bell Atlantic has found that these costs are small and are largely a one-time expense.

The costs of equal access on new PCS and SMR competitors will be even less than for existing cellular carriers, because PCS and SMR systems will not have to retrofit existing networks with equal access capability, but can build their systems with that capability.[9/] The incremental, one-time costs of purchasing and installing switching equipment which can accommodate equal access are entirely manageable.

E. CMRS Equal Access Rules Must Be Uniform.

In its Comments in Gen Docket No. 93-252, Bell Atlantic proposed a comprehensive, detailed set of equal access rules which would allow all interexchange carriers to compete on the same terms for long distance CMRS traffic. Those rules are attached to these Comments. Bell Atlantic continues to believe that the Commission's adoption of this proposal is essential to ensure that equal access is implemented effectively and to achieve Congress's goal of regulatory symmetry. It urges the Commission to adopt it for all cellular, PCS and SMR carriers offering CMRS service.

9/ For this reason, the Commission should expedite its consideration of equal access (and, if necessary, issue an order addressing this portion of the Notice and deferring the interconnection issues) so that rules are adopted before PCS licenses are issued.

In particular, a uniform definition of "wireless exchange areas," the areas between which CMRS carriers must offer equal access, is critical. (Notice at ¶¶ 65-70.) Parity cannot be achieved if certain carriers are able to offer "local" calling across areas that are broader than the areas to which some competing carriers are limited. The market inequalities today result in large part from those disparities. A significant part of the cellular industry is now restricted to exchange areas that are defined principally by LATAs. While Bell Atlantic and other BOCs have requested the MFJ court to substitute in essential respects Major Trading Areas (MTAs) for LATAs because MTAs would more closely fit the wireless markets that have evolved, the court has taken no action, and the Justice Department has not supported MTAs (see supra at 4, n.1). Unless and until the court grants that request, to achieve parity, the Commission must define wireless equal access exchange areas to be coterminous with the exchange areas established by the MFJ court.[10/]

10/ Although ¶ 63 of the Notice correctly states Bell Atlantic's position, ¶ 67 incorrectly states that "Bell Atlantic proposes that the Commission adopt MTAs as the local service area." While Bell Atlantic believes MTAs are an appropriate way to define local service areas, at this time they are not applicable to BOC cellular carriers and thus cannot be adopted for competing CMRS carriers without undermining the statutory mandate (and public interest benefits) of regulatory parity.

III. THE COMMISSION SHOULD NOT REQUIRE LECS TO OFFER INTERCONNECTION PURSUANT TO TARIFF.

The Notice reviews the various requirements which the Commission has adopted over the years to ensure that LECs offer nondiscriminatory interconnection to cellular carriers.[11/] These include the obligation of each LEC to provide the type of interconnection reasonably requested by all cellular carriers, to negotiate in good faith, and to establish reasonable charges. In the Second Report, the Commission extended these requirements to LEC interconnections with any CMRS carrier. All such carriers are thus entitled to the protections the Commission has determined are necessary to promote interconnection.

The Notice, however, goes beyond the steps taken in the Second Report, and asks whether the current regulatory framework should be expanded by requiring LECs to provide interconnection pursuant to tariff. Bell Atlantic opposes any such requirement for three reasons.

First, there is no evidence that the current regulatory structure is inadequate. The Commission notes that only a few commenters in Docket No. 93-252 embraced tariffing interconnection. Notice at ¶¶ 110-12. Nearly all opposed it as needlessly imposing inflexibility and delay which would disserve both carriers and consumers. Most stated that the current regulatory framework provided sufficient protection to cellular carriers and thus should be sufficient for all CMRS carriers, and that it

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11/ Notice at ¶¶ 101-108; see The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 59 RR 2d 1275 (1986); 2 FCC Rcd. 2910, 2913 (1987).

offers carriers the flexibility to negotiate specific interconnection arrangements which best suit their individual needs. Id. at ¶ 114. The FCC's existing policies and sanctions (including enforcement of the provisions in Sections 201 and 202 of the Act through awards of damages and forfeitures) are sufficient. Imposing a tariffing requirement would be precisely the sort of "unwarranted regulatory burden" which Congress directed the Commission to avoid. Notice at ¶ 2.

Second, the Commission has just determined to forbear from imposing tariff requirements on CMRS carriers. Second Report at ¶¶ 173 et seq. Essential to its action was its finding that tariffs are administratively burdensome and may deprive carriers of the ability to make rapid, efficient responses to changes in demand and cost. Id. at ¶ 177. The Commission's findings as to the problems inherent in formal tariff filings apply to interconnection tariffs as well.

Third, given the variety in the types of CMRS systems which will be constructed and in the interconnection needs of CMRS carriers, tariffs may prevent CMRS providers and LECs from freely negotiating the most efficient interconnection arrangements. It is difficult to anticipate all such arrangements in advance and incorporate them in a tariff, while still providing sufficient specificity in the tariff to serve its intended purpose. Thus, requiring tariffs can only impair carriers from negotiating the most mutually advantageous relationships.

The Commission has a decade of experience with LEC interconnection with cellular carriers. At no time did it conclude that

tariffs were necessary. There is no basis for reversing course now, and imposing tariffs for the first time not only on LEC-to-cellular but on all LEC-to-CMRS relationships. Should experience prove that the Commission's array of existing requirements and sanctions prove inadequate, the Commission can then reexamine them.[12/]

IV. THE COMMISSION SHOULD NOT NOW CONSIDER RULES FOR INTERCONNECTION BETWEEN CMRS CARRIERS BUT SHOULD IMPOSE A CONSISTENT RESALE OBLIGATION.

The Notice (at ¶¶ 121-23) also begins an inquiry into the extent that the Commission should regulate the interconnection obligations of CMRS providers themselves. For the same reasons as discussed immediately above, the better course would be to defer considering specific interconnection rules until a later time. While the Commission can declare that CMRS carriers have a basic obligation as common carriers to interconnect with other licensed carriers upon reasonable request from those carriers, it should first rely on the marketplace to determine the appropriate interconnection arrangements. Devising detailed rules is unwarranted and may at this early stage in the CMRS industry's

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12/ The Notice (at ¶ 119) suggests that all interconnection agreements contain a "most favored nation clause," and that they be filed with the Commission. These requirements are unwarranted. If such a clause is intended to make precisely the same terms and conditions available to every carrier, this would preclude carriers from negotiating customized arrangements, contrary to the Act's (and the Commission's) recognition that reasonable differences in carriage arrangements are lawful. Adoption of such a clause should be the result, as current FCC policy requires, of good-faith negotiations. In addition, mandatory filing of contracts would impose a paperwork burden on carriers which would burden the Commission without serving any useful purpose.

development be counterproductive. The Commission should, however, impose an obligation on all CMRS carriers to permit unrestricted and nondiscriminatory resale.

First, the CMRS industry is undergoing rapid change. The Commission is about to license an enormous amount of new spectrum for PCS services, and is in the midst of modifying its existing Part 90 rules to permit expanded SMR service. Things are changing too fast for the Commission to rely on present data as the basis to adopt particular CMRS interconnection requirements. This is apparent from the questions the Commission poses to try and reach a decision as to CMRS interconnection. It asks for specific information on "the nature of the facilities that CMRS providers employ or will employ and the ways they currently connect or plan to connect." Notice at ¶ 130 (emphasis added). These questions make it plain that the Commission can do no more than speculate about the interconnection arrangements which may occur in the future. This is an insufficient basis for adopting specific rules. (In contrast, the Commission's adoption of specific LEC-cellular interconnection policies was the product of its discrete experience in monitoring LEC interconnection.)

Second, the inquiry appears to be seeking a solution for a problem which does not exist. There is no evidence that wireless carriers have been unwilling to interconnect with each other, or that they have an economic incentive to avoid interconnection. To the extent that interconnection facilitates a carriers's ability to offer attractive service to its customers, that will provide sufficient market incentives for interconnection, without the need

for the Commission to intervene. These same incentives will exist as the CMRS industry expands to include PCS and SMR systems. The Commission should not graft a set of interconnection rules on a competitive wireless market without a factual determination that each such rule is necessary. Doing so would undermine one of the cardinal goals of Congress in Section 332, to promote improved and increased consumer access to wireline service through competition rather than by imposing regulatory burdens. Notice at ¶ 2.

If in the future the Commission receives evidence that the CMRS market's competitive forces are inadequate to ensure that carriers are able to achieve interconnection, it can act at that time. But considering detailed interconnection rules now is premature,[13/] and will take scarce Commission resources away from the much more critical task of rectifying the regulatory inequities that Congress wanted to be addressed now.

Bell Atlantic does, however, support the imposition of current resale obligations on all CMRS carriers. Notice at ¶ 137. The Commission has for years required cellular licensees to offer their service to resellers without restriction or discrimination, in order to promote an active resale market and thus stimulate competition.[14/] The only resellers which are not entitled to protection under the resale policy are facilities-based carriers which have held their licenses for at least five years. This

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13/ The Commission recognizes that taking up CMRS-to-CMRS interconnection issues now "may be premature at this stage of the development of the CMRS marketplace." Notice at ¶ 125.

14/ See 47 CFR § 22.914; Proposed Changes to the Commission's Cellular Resale Policies, 7 FCC Rcd. 4006 (1991).

exception is intended to prevent facilities-based carriers from delaying construction of their systems by "freeloading" off the competitor's already-constructed system.

The Commission's findings which led to its rules and policies promoting resale are no less valid for all CMRS carriers than they are for cellular carriers alone. In addition, the key goal of regulatory symmetry requires that all CMRS carriers be subject to the same regulatory obligations. The Commission should thus require all CMRS carriers to offer unrestricted, nondiscriminatory resale, except to licensed carriers which have held their licenses for at least five years.

V. CONCLUSION

For the above reasons, Bell Atlantic urges the Commission to (1) immediately impose equal access rules on all cellular, PCS and SMR carriers offering CMRS, (2) rely on existing interconnection policies to regulate LECs' interconnection with CMRS carriers, and (3) defer consideration of any rules regulating interconnection among CMRS carriers, except that the existing cellular resale obligations should be extended to all CMRS carriers.

Respectfully submitted,

THE BELL ATLANTIC COMPANIES

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Dated: September 12, 1994

EQUAL ACCESS PLAN

1. Provision of Equal Access. Each provider of Commercial Mobile Radio Service ("CMRS")[1/] shall offer to all interexchange carriers exchange access and exchange services for such access on an unbundled basis, that is equal in type, quality, and price to that provided to any interexchange service provided by such CMRS provider or an affiliate thereof.

2. Definition of Exchange Areas. For purposes of the equal access requirement imposed in Rule 1, wireless exchange areas shall be deemed to be coterminous with the exchange areas established in the MFJ as modified in subsequent waivers.

3. Interconnection. Each CMRS provider must offer unaffiliated IXCs the opportunity to interconnect with the CMRS provider either by access tandem connection or by direct connection.

4. Non-discrimination. No CMRS provider may discriminate between an interexchange service provided by the CMRS provider itself or an affiliate thereof, and any other interexchange carrier in the:

(a) establishment and dissemination of technical information and interconnection standards;

(b) interconnection and use of the CMRS providers' service and facilities or in the charges for each element of service;

(c) provision of new services and planning for an implementation of the construction and modification of facilities used to provide exchange service;

1/ For purposes of these proposed equal access rules, "CMRS provider" excludes a provider of paging service.

5. Notification of Changes to Services. Each CMRS provider must notify all interexchange carriers on a nondiscriminatory basis of planned changes to existing network services or the addition of new services that affect the interexchange carriers' interconnection with the CMRS provider's network.

6. Balloting. All customers of a CMRS provider will be free to choose among participating interexchange carriers. All existing and new customers of providers will be sent a ballot and asked to choose an interexchange carrier from among participating interexchange carriers. Each such CMRS provider will list those interexchange carriers in a nondiscriminatory manner and will periodically rotate the listing on a nondiscriminatory basis to ensure that each interexchange carrier has a random chance of being listed at the top of the list. Customers who fail to choose an interexchange carrier will be allocated among interexchange carriers in the same proportion as customers who return their ballots.

7. Customer Information. Every CMRS provider is required to inform each new customer that the customer has a choice of interexchange carriers. Such CMRS provider may not, at the time of establishment of service and the initial choice of interexchange carrier by the customer, recommend the CMRS' own interexchange service over that of an unaffiliated carrier. If a new customer requests additional information concerning any interexchange service offering, including the CMRS carrier's own interexchange service, the CMRS provider will provide the customer, on a nondiscriminatory basis, with any literature provided by, or with the phone number of, the interexchange carrier or carriers about with the customer has requested more information. Subject to the limitation on direct marketing to existing customers noted below, however, nothing in this rule will preclude a CMRS provider from otherwise advertising and promoting the CMRS provider's interexchange service in connection with its local CMRS service.

8. Marketing. After a customer's initial selection of an interexchange carrier, the personnel of a CMRS provider may actively market the CMRS provider's interexchange services to its customers. However, the CMRS provider may use customer names, addresses, and mobile numbers to market its interexchange service only if it provides that information on the same terms and conditions to unaffiliated interexchange carriers, subject to a written agreement by each interexchange carrier that it will use the information only to market that carrier's interexchange services to the CMRS provider's customers.